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09/602,971

06/23/2000

H. Brock Kolls

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EXAMINER

LASTRA, DANIEL

ART UNIT

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11/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/602,971	<b>Applicant(s)</b> KOLLS, H. BROCK	
	<b>Examiner</b> DANIEL LASTRA	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10, 11, 13-16, 19, 22, 23 and 26-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 11, 13-16, 19, 22, 23 and 26-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1-8, 10, 11, 13-16, 19, 22, 23 and 26-31 have been examined. Application 09/602,971 (Internet based network for automotive applications including the facilitation of e-commerce and e-business, and management of wireless connectivity with vehicles) has a filing date 06/23/2000.

### **Response to Amendment**

2. In response Final Rejection filed 04/09/2008, the Applicant filed an RCE on 09/09/2008, which amended claims 1, 13, 19 and added new claims 29-31.

### **Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 10, 11, 13-16, 19, 22, 23 and 26-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Witkowski (US 7,257,426)

As per claims 1 and 13, Witkowski teaches:

A network system for effectuating data communication between a vehicle and a data processing resource, said system comprising:

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An in vehicle monitoring unit for monitoring vehicle operations and for providing vehicle related information (see figure 4 item 10a; col 12, line 56 – col 13, line 15);

an in-vehicle device in operative communications with the in-vehicle monitoring unit and installed in said vehicle, said in-vehicle device having a first wireless network connectivity interface (see figure 4 item 10b); and

store display adapted to *physically* hold a plurality of products for sale to and accessible by a customer, said store display equipped with a communication interface device (see col 9, lines 60-67 “drive-through menu board”; col 13, lines 1-5 “website of the manufacturer of the vehicle”) having:

a second wireless network connectivity interface, said second wireless network connectivity interface adapted to data communicates with said first wireless network connectivity interface (see figure 4, item 10a; ) and

communication interface to communicate data between said second wireless network connectivity interface and said data processing resource (see figure 4 item 48; col 13, lines 1-5 “remote database”), the communication interface communicating the vehicle related information from said in-vehicle monitoring unit via the in-vehicle device to said data processing resource for processing by the data processing resource (see col 10, lines 1-15 “vehicle location is detected approaching a drive through menu board”; col 13, lines 1-15 “malfunction is reported to the manufacturer”), wherein the data processing resource communicates selection information to the store display for selecting at least one of the products for sale *physically* held by the store display responsive to the vehicle related information (see col 10, lines 101-25 “menu

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information is downloaded to the vehicle display system”; col 13, lines 1-10 “warranty and part information are accessed through the manufacturer website”).

As per claims 2 and 14, Witkowski teaches:

wherein said communication interface device further comprises:

a wireless data connection, said wireless data connection adapted to effectuate a data connection with a wireless device (see col 10, lines 1-25).

As per claims 3 and 15, Witkowski teaches:

wherein said wireless data connection includes at least one of the following:

a wireless transceiver interface (See col 10, lines 1-25);

said wireless device interface;

a wireless modem interface;

a wireless phone interface; or

a wireless data link (see col 10, lines 1-25).

As per claims 4 and 16, Witkowski teaches:

wherein said wireless device is at least one of the following:

a wireless phone;

a personal data assistant (see column 1, lines 20-30);

a pager;

a personal computer ;

an Internet appliance; or

a programmable storage device.

As per claim 5, Witkowski teaches:

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wherein said in-vehicle device further comprises:

a wireless data connection, said wireless data connection adapted to effectuate a data connection with a wireless device (see col 10, lines 1-25).

As per claim 6, Witkowski teaches:

wherein said wireless data connection includes at least one of the following:

a wireless transceiver interface;

said wireless device interface;

a wireless modem interface;

a wireless phone interface; or

a wireless data link (see col 10, lines 1-25).

As per claim 7, Witkowski teaches:

wherein said wireless device is at least one of the following:

a wireless phone;

a personal data assistant (see column 1, lines 20-30);

a pager;

a personal computer;

an Internet appliance; or

a programmable storage device.

As per claim 8, Witkowski teaches:

wherein said first wireless network connectivity interface, said second wireless network connectivity interface and said communication interface include at least one of the following communication interface types:

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a wired data link;  
a wide area network connection;  
a network connection (see col 2, lines 60-67);  
a universal serial bus port;  
a personal data assistant interface;  
an RS232 interface;  
an RS485 interface;  
a carrier current interface;  
a network connection to the Internet;  
a modem interface;  
a wireless modem interface;  
a wireless phone transceiver;  
a wireless phone interface;  
a wireless data link; or  
a local area network interface.

As per claim 10, Witkowski teaches:

wherein said data processing resource is one of the following:

a global network data processing resource;  
a global network server (see col 2, lines 10-45);  
a global network application server;  
a global network database;  
a virtual private network

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- an emergency monitoring network;
- a second communication interface device;
- a second in-vehicle device;
- a personal computer;
- a wireless phone;
- a personal data assistant;
- a pager;
- a pocket sized personal computer;
- a programmable storage device; or
- an Internet appliance.

As per claim 11, Witkowski teaches:

wherein said first wireless network connectivity interface, said second wireless network connectivity interface and said communication interface data communicate by at least one of the following:

- a wireless connection (see col 10, lines 1-25);
- a wired connection;
- a personal data assistant interface;
- a wireless phone interface;
- an RS232 serial interface;
- an RS485 interface;
- a USB port interface;
- an ethernet connection;



- a TCP/IP type network connection;
- a PPP type network connection;
- a SLIP type network connection;
- a socket layer network connection;
- BLUETOOTH protocol or standard; or
- Wireless Application Protocol or standard.

As per claim 19, Witkowski teaches:

A method of data communicating between an in-vehicle device installed in a vehicle and a data processing resource, said method comprising:

- a) *physically* holding by a store display that is accessible by a customer, a plurality of products for sale (see col 10, lines 1-25);
- b) routing vehicle related information from an in-vehicle monitoring unit to the in-vehicle device (see figure 4 item 10a; col 12, line 56 – col 13, line 15);
- c) communicating a plurality of digital content including vehicle related information wirelessly between the in-vehicle device and the store display equipped with a communication interface device to effectuate data communication of the vehicle related information from said in-vehicle device to said data processing resource (see col 10, lines 1-15 “vehicle location is detected approaching a drive through menu board”; col 13, lines 1-15 “malfunction is reported to the manufacturer”),
- d) routing said plurality of digital content from said store display to said data processing resource (see col 10, lines 1-25);

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e) determining at said data processing resource a plurality of return digital content including selection information for selecting at least one of the products for sale responsive at least in part to said plurality of digital content (see col 10, lines 101-25 “menu information is downloaded to the vehicle display system”; col 13, lines 1-10 “warranty and part information are accessed through the manufacturer website”).

f) routing said plurality of return digital content to said store display (see column 10, lines 1-25);

g) presenting said plurality of return digital content to said customer at said store display (see col 10, lines 101-25 “menu information is downloaded to the vehicle display system”; col 13, lines 1-10 “warranty and part information are accessed through the manufacturer website”).and

h) *physically* selecting, by the customer, at said store display the at least one of the products of sale *physically* held by the store display responsive to the selection information using said presented return digital content (see col 4, lines 1-15 “electronic payment authorize by the driver of the vehicle from menu information displayed from menu board”).

As per claim 22, Witkowski teaches:

receiving the selection of one or more of said plurality of return digital content from said customer at said store display (see column 10, lines 1-25).

As per claim 23, Witkowski teaches:

wherein said data processing resource is a global network based data processing resource (see col 14, lines 40-65).

Claim 26, Witkowski teaches:

wherein the store display is configured to accept input from the customer via an input device such that the at least one of the products for sale is selected by the customer at the store display based on the vehicle related information provided from the in-vehicle device (see col 10, lines 1-25).

Claim 27, Witkowski teaches:

wherein the at least one of the products for sale is physically selected by the customer from the store display (see col 9, line 60 – col 10, line 25).

Claim 28, Witkowski teaches:

wherein the processing resource provides to the store display the selection information regarding the at least one of the products for sale that are compatible with the vehicle related information associated with the vehicle operations and provided from the in- vehicle device (see col 9, line 60 – col 10, line 25).

Claim 29, Witkowski teaches:

wherein the store display includes a display rack for physically holding the products for sale (see col 8, lines 56-67 “service maintenance center”; col 10, lines 1-25 “bank, prescription store, retail store”).

Claim 30, Witkowski teaches:

wherein the vehicle related information includes status information and/or maintenance parts of the vehicle used for physical selection of the products for sale at the store (see col 8, line 55-67).

Claim 31, Witkowski teaches:

wherein the in-vehicle device communicates at least vehicle operations information to the store display to aid the customer in the physical selection of one of the products held by the store display (see col 10, lines 1-25 “menu”).

### ***Response to Arguments***

4. Applicant's arguments filed 09/09/2008 have been fully considered but they are not persuasive. The Applicant argues that Witkowski is silent about the drive-thru board 46 including capabilities to physically hold products that are for sale, thus according to the Applicant, Witkowski does not teach “a store display adapted to physically hold a plurality of products for sale to and physically accessible by a customer”. The Examiner answers that Witkowski's drive-thru board 46 are retail stores, such as drive-thru prescription stores which allows drivers to order physical products (i.e. prescription drugs) more conveniently and more quickly without the need for the driver to leave the vehicle to effect a transaction (see col 10, lines 15-25). Therefore, contrary to Applicant's argument, Witkowski's drive-thru store includes capabilities to physically hold products as drivers are ordering physical products (i.e. prescriptions) from said stores as said drivers are driving to said stores to pick-up the physical product (i.e. drive-thru).

The Applicant argues that Witkowski does not teach communicating the “vehicle related information from said in vehicle monitoring unit via the in-vehicle device to the data processing resource and furthermore, the Applicant argues that Witkowski is silent regarding the data processing resource communicating selection information for selecting at least one of the products for sale responsive to vehicle information. The

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Examiner answers that Witkowski teaches obtaining diagnostic information about a vehicle, such as fuel and service related operation (see col 8, lines 37-67) to facilitate repair of said vehicle (see col 12, line 47 - col 13, line 15) and allowing a driver of said vehicle to place orders for products related to said vehicle's diagnostic information such for example, fuel purchase (see col 10, lines 1-25). Therefore, contrary to Applicant's argument, Witkowski teaches Applicant's claimed invention.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James W. Myhre can be reached on (571)272-6722. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/

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November 10, 2008